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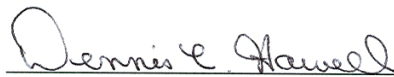
Defendant.

¹ Taylor v. Abate, 1995 WL 362488, *2 (E.D.N.Y.1995) (“Defendants’ motion to dismiss is addressed solely to the original complaint… Consequently, upon the filing of the amended complaint, their motion is mooted and, therefore, denied.”); In re Colonial Ltd. Partnership Litig., 854 F.Supp. 64, 80 (D.Conn. 1994) (noting where “a plaintiff amends its complaint while a motion to dismiss is pending” the court may “deny[] the motion as moot”); Rathke v. HCA Management Co., Inc., 1989 WL 161431, at *1 n. 1 (D.Kan.1989) (holding that “motion to dismiss … became moot when plaintiff filed an amended complaint”); Gresham v. Waffle House, Inc., 586 F.Supp. 1442, 1444 n. 1 (N.D.Ga.1984) (same).

ORDER

IT IS, THEREFORE, ORDERED that the consent Motion for Leave to File Amended Complaint (#29) is **GRANTED**, plaintiff shall file such Amended Complaint within 10 days of receipt of this Order, the defendant's Motion to Dismiss (#19) is **DENIED** without prejudice, the Counterclaim is **STRICKEN** without prejudice, and defendant is allowed 10 days from the filing of the Amended Complaint to Answer.

Signed: June 25, 2007

A handwritten signature in cursive script, reading "Dennis L. Howell", is written over a horizontal line.

Dennis L. Howell
United States Magistrate Judge

